

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Proposed Changes in the Commission's Rules)	ET Docket No. 03-137
Regarding Human Exposure to Radiofrequency)	
Electromagnetic Fields)	

To: The Commission

**MOTION FOR SUMMARY DECISION DISMISSING PETITION FOR
RECONSIDERATION OF THE AMERICAN ASSOCIATION FOR JUSTICE**

Pursuant to Sections 1.41 and 1.429(l) of the Commission's rules and regulations [*47 C.F.R. §§1.41, 1.429(l)*], COMES NOW the undersigned Movant, JAMES EDWIN WHEDBEE, moving the Commission's summary order dismissing the Petition for Reconsideration of the American Association for Justice ("AAJ"). As good cause therefor, Movant states as follows.

[1] Petitioner fails to identify any material error, omission, or reason warranting reconsideration or anything arbitrary or capricious in the Commission's administrative reliance upon the FDA's finding that the pinna is an extremity. Given the inherent public health nature of the Commission's classification of the pinna as an extremity, that the Commission gave weight to FDA's classification is consistent with the Administrative Procedures Act, and any other action by this Commission would require extraordinary explanation. Therefore, AAJ's petition must be summarily dismissed.

[2] Petitioner relies on arguments (or lack thereof) that have been fully considered and rejected by the Commission within the same proceeding regarding the pinna. Simply put, the Petitioner has stated nothing new; accordingly, the petition must be dismissed summarily.

[3] The petition relates to matters outside the scope of the order for which reconsideration is sought. Particularly, when the Petitioner suggests the Commission engage in human experimentation with RF emissions, this petition far exceeds the scope of authority Congress gave

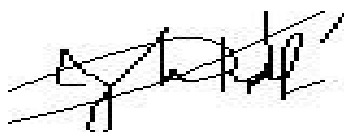
the Commission to regulate interstate telecommunications.

[4] The petition is untimely. There is pending a Further Notice of Proposed Rulemaking pending and separate rulemaking proceeding investigating the propriety of existing regulations in light of recent developments; accordingly, the relief Petitioner seeks is potentially available in Docket #13-84. Furthermore, Petitioner offers no medically conclusive evidence excluding intervening causation which might demonstrably provide a nexus between radio frequency emissions and any acute or chronic disease process or disability beyond thermal fluctuations in tissue temperatures. Moreover, the same 'research' provided by the Petitioner might lead to the same conclusions if that 'research' was done using infrared radiation (heat) at varying power levels. For each of these reasons, no bona fide evidence exists anywhere in these proceedings, including Petitioner's exhibits, justifying the regulatory outcomes Petitioner's petition for reconsideration seeks; accordingly, it should be summarily dismissed.

WHEREFORE, the foregoing considered, Movant respectfully moves summary dismissal, with prejudice to its refiling, of the Petition for Reconsideration filed by AAJ and for such other and further relief as is consistent herewith.

Respectfully submitted:

July 2, 2013

A handwritten signature in black ink, appearing to read 'James Whedbee', with a stylized flourish at the end.

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